

AMENDED IN SENATE MARCH 16, 2004

Senate Joint Resolution

No. 24

Introduced by Senator Ortiz

February 25, 2004

Senate Joint Resolution No. 24—Relative to pharmaceutical advertising.

LEGISLATIVE COUNSEL'S DIGEST

SJR 24, as amended, Ortiz. Pharmaceutical advertising.

This measure would memorialize the *President and* Congress of the United States to recognize the problems caused by direct-to-consumer advertising of prescription drugs by pharmaceutical companies and to take specified actions in the regulation of consumer advertising of prescription drugs.

Fiscal committee: no.

1 WHEREAS, The United States is one of the few countries that
2 allow pharmaceutical companies to advertise their prescription
3 drugs; and

4 WHEREAS, In 1997, the federal Food and Drug
5 Administration relaxed restrictions on the content of
6 direct-to-consumer prescription drug advertising, withdrawing
7 the prior requirement for a summary of side-effect and adverse
8 reaction information and replacing it with a requirement for a
9 statement about “major risks” but not ~~“all” risks~~ “all risks”; and

10 WHEREAS, The shorter “major risk” statement made
11 television and radio advertisements about prescription drugs more
12 practicable; and

1 WHEREAS, Pharmaceutical companies spent ~~\$1.8~~ 1.6 billion
2 on direct-to-consumer *television* advertising in 2000, up from
3 ~~\$220-761~~ million in 1996; and

4 WHEREAS, While health care spending generally is expected
5 to increase by an average of 7.9 percent per year between 1998 and
6 2010, exceeding the 5.2 percent annual growth of 1993 to 1998,
7 total prescription drug expenditures will increase by 15 percent per
8 year as early as 2004; and

9 WHEREAS, Numerous studies have linked the increased
10 direct-to-consumer advertising to the exponential growth in
11 prescription drug expenditures; and

12 WHEREAS, Surveys suggest that 50 percent of the public
13 believes that direct-to-consumer advertisements of prescription
14 drugs must be submitted to the government for prior approval, 43
15 percent believe that only “completely safe” drugs may be
16 advertised directly to consumers, 22 percent believe that
17 advertising of drugs with serious side effect has been banned, and
18 21 percent believe that only “extremely effective” drugs may be
19 advertised directly to consumers, and yet, all of these beliefs are
20 untrue; and

21 WHEREAS, Consumers are placing pressure on their
22 prescribers to prescribe these drugs, some cases, inappropriately;
23 and

24 WHEREAS, In 1997, a study of family physicians revealed that
25 80 percent of them believed that direct-to-consumer advertising
26 “was not a good idea”; and

27 WHEREAS, The federal Food and Drug Administration has
28 begun a review of the policy that unleashed an explosive growth
29 of prescription drug advertising; now, therefore, be it

30 *Resolved*, That the President and Congress of the United States
31 and the United States Department of Health and Human Services
32 are memorialized to recognize the problems caused by
33 direct-to-consumer advertising of prescription drugs by
34 pharmaceutical companies; and be it further

35 *Resolved*, That the United States Food and Drug Administration
36 is requested to aggressively monitor and regulate
37 direct-to-consumer advertising of prescription drugs by
38 pharmaceutical companies, pending action by the President and
39 the Congress of the United States to limit, ban, or ~~placed~~ place
40 increased restrictions on that advertising; and be it further

1 *Resolved*, That the President and the Congress of the United
2 States are memorialized to limit or ban direct-to-consumer
3 advertising of prescription drugs by pharmaceutical companies,
4 or, alternatively, to require that those advertisements do the
5 following:

6 (1) Remind consumers that prescribers and pharmacists are the
7 best sources of information about appropriate medical treatment
8 and drug therapy.

9 (2) Explicitly state the success and failure rates of drugs and
10 compare them with other common products ~~and~~ *or* no treatment.

11 (3) Mention alternate treatments by name and class.

12 (4) Recommend that consumers ask their prescribers and
13 pharmacists if a generic equivalent is available for their condition.

14 (5) Refer consumers to independent sources of drug
15 information; and be it further

16 *Resolved*, That the Secretary of the Senate transmit copies of
17 this resolution to the President of the United States, the Speaker of
18 the House of Representatives, the President pro Tempore of the
19 Senate, to each Senator and Representative from California in the
20 Congress of the United States, to the Secretary of the United States
21 Department of Health and Human Services, and the Director of the
22 United States Food and Drug Administration.

